

U.S. DEPARTMENT OF COMMERCE
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In Reply Please Refer To The Following:		
EXAMINER'S NAME	C.M. Nucker	
GR. ART UN.	07/07/78	SERIAL NO. 922,799
APPLICANT	Samuel Bogoch	
INVENTION DETECTION OF MALIGNANT TUMOR CELLS		

Mailed

MAILED

JUL 28 1980

Paul H. Heller
 Kenyon & Kenyon Reilly Carr & Chapin
 59 Maiden Lane
 New York, NY 10038

Below is a communication from the EXAMINER
in charge of this application.

Commissioner of Patents, and Trademarks

ADVISORY ACTION

THE PERIOD FOR RESPONSE IS EXTENDED TO RUN 6(SIX) MONTHS FROM THE DATE OF THE FINAL REJECTION, 855 O.G. 1109.

Appellant's Brief is due in accordance with Rule 192(a).
 Applicant's response to the final rejection, filed 6/30/80, has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1. The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:

- a. There is no convincing showing under Rule 116(b).
- b. They raise new issues that would require further consideration and/or search.
- c. They raise the issue of new matter.
- d. They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
- e. They present additional claims without cancelling a corresponding number of finally rejected claims.

2. Newly proposed or amended claims _____ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3. Upon the filing of an appeal, the proposed amendment will be will not be, entered and the status of the claims in this application would be as follows:

- a. Claims _____ would be allowable.
- b. Claims _____ would not be allowable.

However:

(1) The rejection of claims _____ on references is deemed to be overcome by applicant's response.

(2) The rejection of claims _____ on non-reference grounds only is deemed to be overcome by applicant's response.

4. The affidavit, exhibit or request for reconsideration has been entered but does not overcome the rejection.

5. The affidavit or exhibit will not be admitted because applicant has not shown good and sufficient reasons why it was not earlier presented.

6. The application having been examined under the special _____

Claim 40 is indefinite. It is not seen how the "anti-MALIGNIN" can be a product of it self and MALIGNIN.

Figures 2, 3a and b must be cancelled.

If the terminology problem between claims 38 and 40 could be resolved, it would appear that all the claims of the amendment of June 30, 1980 would be allowable.

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BENJAMIN R. PADGETT
EXAMINER
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07-25-80